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February 10, 2017

Ms. Sara Sparks
United States Environmental Protection Agency (EPA)
Region 8 Montana Office
Federal Building
10 W. 15th Street, Suite 3200
Helena, MT 59626

Subject: **Response to EPA's January 19, 2017 Letter**
Former Frenchtown Mill, Missoula County, Montana

Dear Ms. Sparks,

On behalf of the former Frenchtown Mill Site (Site) potentially responsible parties (PRPs), NewFields is submitting this letter in response to a January 19, 2017 letter from the Environmental Protection Agency (EPA). In that letter, EPA requested that the PRPs complete a study to determine the stability of the berms as part of the Remedial Investigation (RI).

The PRPs contend that a berm stability study is not required to accomplish the RI objectives and that the RI (investigation and risk assessments) must be completed before any berm stability studies are conducted. Specifically, until it is determined that any contamination in OU3 poses an unacceptable risk to the environment, it is premature to evaluate the stability of the berms. This task, if needed, would likely be more appropriate in the Feasibility Study phase of the project using the results of the investigations and risk assessments from the RI to inform the scope of the study. We offer the following information to support our position concerning this matter.

Classification and Regulations of Berms/Levees

Montana laws pertaining to dams and reservoirs are codified in Montana Code Annotated (MCA), 85-15-101 through 85-101-503, under the Dam Safety Act. Under MCA 85-15-110, the berms are not regulated by DNRC because they are classified as low hazard dams. This assertion is supported by language in MCA 85-15-110, which states "The department may adopt rules to….. (1) classify high hazard dams and reservoirs, and to (4) establish safety standards for the design construction, operation, and maintenance of high-hazard dams and reservoirs". The DNRC does not have regulations applicable to low hazard dams. Similarly, Montana rules specific to the Dam Safety Act (Title 36, Chapter 14, 101-803), apply to high hazard dams. In November 2009, at the request of Smurfit-Stone, the Montana Department of Natural

Resources and Conservation (DNRC) performed a "Determination of Hazard Classification of Dams and Reservoirs" at the facility. In the 2010 hazard classification document, the state determined the berms to be unregulated, low hazard dams (DNRC, 2010).[1]

Flood Risks

The Clark Fork River (CFR) berm was constructed in segments between 1958 and 1970. Major flow events on the CFR between 1970 and the present are listed in **Table 1**. The highest CFR flows during this time period were recorded on May 18, 1997 at 55,100 cubic feet per second (cfs) at a gauging station below Missoula about 5 river miles upstream of the site. The May1997 flow is considered a 30-year flood event by NewFields. The USGS and FEMA estimates of a 100-year flood event (61,700 and 64,000 cfs, respectively) are shown in **Table 2**. During the 1997 flow event, the CFR berm did not overtop or breach the berms and according to eye witnesses interviewed by Newfields, there was an estimated 6-8 feet of freeboard along the CFR berm from roughly Pond 2 to Pond 13A (**Attachment A**).

Table 1: Major CFR Flows Recorded at the United States Geological Survey (USGS) Gage 12353000 (Clark Fork River Below Missoula) between 1970 and Present

Date	Flow (cfs)	Approximate Recurrence Interval (years)
6/3/1972	52,200	25
6/18/1974	47,900	10-15
6/21/1975	49,200	15
5/18/1997	55,100	30
6/9/2011	47,000	10-15

Table 2: Flood Frequency Table with Flow Estimates Developed by the USGS and FEMA for USGS Gage 12353000.

Flood Frequency	USGS Estimate (cfs)	FEMA Estimate (cfs)
100 year	61,700	64,000
50 year	57,300	58,000
25 year	52,400	Not estimated
10 year	45,200	47,000

[1] The DNRC also recommended that the earthen berms be classified as significant hazard dams in accordance with the National Dam Inventory (NDI) maintained by the U.S Army Core of Engineers (USACE). Unlike the DNRC, which classifies dams as low or high, the USACE classifies dams as 'low', 'significant', or 'high'. The berms on the site are currently listed in the NDI; however, a hazard classification is not identified. Throughout the history of the Mill's operation, the USACE has never been involved in management of the berms/dams at the facility other than to provide permits for berm maintenance.

The PRPs are not aware of any berm failures or instances when the CFR berm overtopped, and at present, the PRPs do not believe the berms pose an immediate threat to the environment. The CFR berm was inspected for signs of damage on a routine basis during the time the mill was operating and the storage ponds were full of water, and berm maintenance was conducted as needed.

The Montana Department of Natural Resources (DNRC) is the agency which regulates the safety and maintenance of berms. Based on the classification of the berms at the site by the DNRC, berm inspections are not required in accordance with state and federal regulations. Also, any requirements specific to the safety and maintenance of the berms on the site, including berm inspections, are the sole responsibility of the site owner and not the group of PRPs. However, the PRPs are willing to attempt to work with the site owner and perform an inspection of the Clark Fork River (CFR) berm before 2017 peak flows to verify the structural condition of the berm. The berm inspection would be completed in accordance with the Montana Department of Natural Resources and Conservation (DNRC) guidance for an annual inspection. The inspection would be completed by a licensed Professional Engineer familiar with berm construction.

Contaminants of Concern in the Berm Materials

Previous investigations indicated that contaminants of potential concern (COPCs) were not detected at unacceptable concentrations in the berms. Three samples were collected in pond berms during the spring 2014 and fall 2015 site investigations (NewFields 2014, NewFields 2016). The samples were collected from berms located hydrologically downgradient from primary wastewater treatment basins. The berms sampled were also constructed of the same materials used to construct the CFR berm.

No COPCs have been detected in the berms during previous sampling at concentrations above appropriate screening levels or background levels. However, the PRPs are willing to collect additional soil samples from the berm via soil cuttings generated during the installation of the three deep groundwater wells previously agreed to as part of the deep groundwater investigation.

The PRPs respectively request a meeting with the EPA (technical and legal teams) to discuss EPA's letter and concerns regarding the stability of the berms. It is hoped that we can come to a mutual agreement concerning this matter. In the meantime, we await response to our request for a meeting in the near future.

Respectfully submitted,

David Tooke
Project Coordinator

References:

March, 2010 letter from Larry Schock (Montana DNRC) to Terry McLaughlin (Smurfit-Stone) regarding the determination of hazard classification for the dikes and storage ponds at the former Frenchtown Mill.

NewFields. (2014). Site Investigation of Ancillary Parcels and Wastewater Treatment Facilities. Former Frenchtown Mill Site Missoula County, Montana. (p. 816). Missoula, MT.

NewFields. (2016). Preliminary Data Summary Report Smurfit Stone/Frenchtown Mill, Missoula County, Montana. Prepared for International Paper Company, M2Green Redevelopment, LLC, and WestRock CP, LLC. V2, October 2016 (p. 740). Missoula, MT.

Copies:

Joe Vranka, (Region 8 Montana Office, EPA)
Keith Large (Montana Department of Environmental Quality)
Steve Hamilton & Nina Butler (WestRock)
Brent Sasser & Steve Ginski (International Paper)
Ray Stillwell (M2Green Redevelopment)

Attachments:

A – Photos Taken During Peak Clark Fork River Flows in 1997 Along Holding Pond 2 and at Outfall #3 Near Holding Pond 13A.

Photo 1:
Photo taken May 19, 1997

Location:
Frenchtown Mill Site

Description:
Berm along Holding Pond 2, facing downriver (north). Clark Fork River during peak flow (approximately 54,000 cfs.)

Photo 2:
Photo taken May 19, 1997

Location:
Frenchtown Mill Site

Description:
Berm along Holding Pond 13A at Outfall #3, facing downriver (north). Clark Fork River during peak flow (approximately 54,000 cfs.)